

CHAPTER 7-05 EXAMINATIONS AND REPORTS

7-05-01. Examination and fees therefor. The commissioner of financial institutions, at least once each year or oftener if the commissioner deems it necessary or expedient, shall examine into the affairs of all domestic associations doing business in this state. Whenever persons holding ten percent or more of the subscribed shares of any association file a written application with the commissioner requesting the commissioner to make an examination of any such association, the commissioner shall make such examination forthwith. Upon the completion of any examination of any association made by the commissioner or under the direction of the commissioner, the association so examined shall pay to the state treasurer a fee. Fees for such examination must be charged by the department of financial institutions at an hourly rate to be set by the commissioner, sufficient to cover all reasonable expenses of the department associated with the examinations provided for by this section. The commissioner shall report such payment to the state banking board, and if any such association is delinquent more than twenty days in making such payment, the state banking board may make an order suspending the functions of such association until payment of the amount due. The commissioner may assess a penalty of five dollars additional for each day of delay in payment. In lieu of the examinations herein required, the commissioner may accept any examination made by a federal home loan bank, the federal home loan bank board, or by the federal savings and loan insurance corporation. The commissioner may in the commissioner's discretion conduct a joint examination with said described federal agencies. Fees and penalties under this section must be paid to the state treasurer and deposited in the financial institutions regulatory fund.

7-05-02. Powers of commissioner. The commissioner of financial institutions has power to prescribe for and supervise a uniform system of reports for all associations and has access to and may compel the production of all books, papers, securities, and moneys of any association under examination. The commissioner has power to administer oaths to and examine the officers, employees, agents, and shareholders of such association relative to its business and affairs.

7-05-03. Building and loan associations. The commissioner of financial institutions shall keep and preserve in permanent form a full record of the proceedings of the commissioner, including a concise statement of each association examined, and the commissioner shall report to the state banking board as provided by section 6-01-10.

7-05-04. Reports confidential - Exceptions - Penalty. Information obtained in the course of an examination by the commissioner of financial institutions is confidential information. However, the above provision does not apply when the public duty of such officer requires the commissioner to report upon or take official action regarding the condition of an association that the commissioner has examined. This section must not be construed to prevent the said officer from fully disclosing to any federal agency any information which such commissioner may have in the commissioner's office pertaining to such associations. Nothing in this section prevents the proper exchange of information relating to building and loan associations and the business thereof with the representatives of building and loan departments of other states, but in no case may the private business or affairs of any individual association or company be disclosed. This section must not be construed to prevent the said officer from fully disclosing to the federal home loan bank board at Washington, D.C., or to the federal home loan bank of this district, or to any other federal agency, any information which such commissioner may have in the commissioner's office pertaining to such associations. It is a class C felony for the commissioner, the commissioner's deputy, or any of the commissioner's employees to willfully make a false report as to the condition of any association.

7-05-05. Annual statement - Filing - Publication. Every association authorized to do business in this state, annually on the thirty-first day of December or within thirty days thereafter, shall file with the commissioner of financial institutions a full and detailed report, in writing, of the affairs and business of the association for the fiscal year ending on December thirty-first, showing its financial condition at the end of said year. The report must be in such form and must contain

such information as may be prescribed by the commissioner. It must be sworn to by the secretary of the association, and its correctness must be attested by at least three directors or by an auditing committee appointed by the board of directors. Such report, in such form as the commissioner may require, must be published once in a newspaper published in the city in which the association is located, or if no newspaper is published therein, in the one published nearest thereto in the same county. Proof of such publication must be furnished at such times and in such manner as may be required by the commissioner.

7-05-06. Report to commissioner. Every association shall make a report of its condition to the commissioner of financial institutions whenever requested by the commissioner to do so, and such report may be in addition to the report required under section 7-05-05. Such report must be in the form prescribed by the commissioner and must be verified by the oath or affirmation of the president, vice president, or secretary of the association and attested by at least two of the directors who shall sign such report. The report must exhibit in detail, under appropriate headings, the resources and liabilities of the association at the close of business on any past day specified by the commissioner, and must be transmitted to the commissioner within fifteen days after the receipt of a request therefor from the commissioner.

7-05-07. Communications from commissioner. Each official communication directed by the commissioner of financial institutions or one of the commissioner's examiners or deputies to a building and loan association, or an officer thereof, relating to an investigation or examination conducted by the commissioner or containing suggestions or recommendations as to the conduct of the business of the association must be submitted by the officer receiving it to the board of directors at the next meeting of the board and noted in the minutes of the meeting of such board.